

The reference to related applications and patents is being amended to clarify the priority to the applications and place them in chronological order. The deleted references and their benefit of earlier filing dates under 35 USC 120 and 121 is no longer claimed. The specification have been amended to correct spelling errors.

#### **AMENDMENT TO THE CLAIMS INVOLVING NO NEW MATTER**

Claims 1-10 and new claims 11-14 are present in the instant application. The amended and new claims do not involve new matter and are supported by the specification and claims as original filed. Claims 1-10 are amended not because of any prior art but to better bring out the invention.

#### **Rejection under 35 USC §102 or under 35 USC 103(a) as obvious over '708 and '468 should be withdrawn**

The present claims 1-14 of the invention are not the same, are patentably distinct, and non-obvious over Applicant's patented SEBS '708 and '468 claims and the rejections should be withdrawn.

In support of applicant's position that the present claimed invention are different, patentably distinct, and non-obvious, the Office is directed to US Patent document AN (of IDS 8/27/96) #4716183 ('183). Patent '183 at col. 1, lines 24-36 regarding SEBS gels and states:

"Various compositions within this class of elastomers have different combinations of physical properties.... The particular combinations of properties.... is not predictable.... Other factors can produce drastic changes in properties of the final composition."

In further support of non-obvious, the Office is directed to US Patent document U (of IDS 10/23/97) #5618882 ('882) which states at col. 1, line 27-28:

"The SEPS gels.... Have higher tack than the known SEBS gels...." With respect to SEPS as compared to SEP/EBS gels, the '882 patent states at col 5. Lines 64-65 "Tensile strength and elongation show a general improvement, especially for EP/EB midblocks." With respect to SEPS and SEBS gels as compared to SEP/EBS gels, Col 7, Table III and lines 21-22, "....set is improved, particularly with EB/EB mid blocks...." With respect to improved phase stability of (EP/EB) midblock gels, at col. 7, lines 25-27, "....EP/EB mid block gels show a clear improvement over EB mid block gels."

According to US Patent #5618882, SEP/EBS gels show improvement in properties over SEBS and SEPS. The claimed crystal gels of the instant invention are different, patentably distinct, and non-

obvious over the SEBS gel and composites of the Applicant's patented '708 and '646 SEBS and SEPS gels.

Since the unexpected properties of the claimed invention reciting ethylene crystallinity not found in any prior art and said claimed gels having a selected amount of crystallinity sufficient to achieve improvements in one or more properties including improved tear resistance and improved resistance to fatigue and the improvements in properties of the claimed crystal gel being greater than an amorphous gels made from poly(styrene-ethylene-butylene-styrene) or poly(styrene-ethylene-propylene-styrene) having substantially non-crystalline components at corresponding said gel rigidity as recited in the claims, the rejection under 102 and 103(a) being unpatentable should be withdrawn.

Enclosed are copies sheet 1 A-I, U (US5994450 appears to be relevant) obtained off the internet by applicant from 10/8/99 through 1/2000; no hard copies are available. Copies of sheets 2-8 of Form PTO 1449 sent to Applicant by a third party requesting reexamination of US Patent No. 5633286. Apparently the documents are considered of higher relevance by the third party and for that reason should also be considered by the Office with respect to this application. Also submitted are sheets 6-8 of Form 1449. The documents CA-DW, DX-FL, G-J, and FM-FY cited are cumulative fined on 8/8/96 in the parent case 08/719,817 (FB US5618882 appears to be relevant). Hard copies of all the documents were filed in 08/719,817 with Examiner Peter Szekey of Art Unit 1511.

It should be noted that Applicant's earlier filing date with respect to the SEEPS polymers dates back to PCT/US94/04278 filed 4/19/94, PCT/US94/07314 filed 6/27/94, and US Patent No. 5633286 filed 8/11/94 which priority dates are earlier than the 5618882 patent's §371 and §102(e) dates of November 14, 1994 and earlier than the US59944450 priority filing dates. Therefore, US5994450 does not appear to be relevant prior art and supports novelty and non-obviousness of the claimed invention.

No additional claim fees are required, since up to 3 independent claim and up to 20 claim fees have been paid.

Should Examiner have any questions regarding this response, Applicant can be reached at (415) 355-0177.

Respectfully submitted,

  
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